

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10

ARGENBRIGHT SECURITY, INC.¹
EMPLOYER

and

10-RC-15260

TRANSPORT WORKERS OF AMERICA
PETITIONER

ARGENBRIGHT SECURITY, INC.
EMPLOYER

and

10-RC-15261

TRANSPORT WORKERS OF AMERICA
PETITIONER

ORDER SEVERING CASES

AND

DECISION AND ORDER

On January 4, 2002, an Order Consolidating Cases and Notice of Representation Hearing issued in the above entitled proceeding. On January 10, 2002, the parties entered into a Stipulated Election Agreement in Case 10-RC-15260 while proceeding to hearing in Case 10-RC-15261. On January 10, 2002, the Regional Director approved the Stipulation in Case 10-RC-15260. Having considered the foregoing,

IT IS HEREBY ORDERED that Case 10-RC-15260 be and, it hereby is, severed from this proceeding.

¹ The name of the Employer appears as amended at the hearing.

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held in Case 10-RC-15261 before a hearing officer of the National Labor Relations- Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned.

Upon the entire record in this case, the undersigned finds:²

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is a Georgia corporation with an office and place of business located in Atlanta, Georgia, where it is engaged in the provision of security and ancillary airport services. During the past twelve (12) months, a representative period, the Employer has provided services valued in excess of \$50,000.00 directly to customers located outside the State of Georgia.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9 (c)(1) and Section 2(6) and (7) of the Act.

5. There is no history of collective bargaining in the unit sought at the Atlanta, Georgia location.

6. The Petitioner seeks to represent a unit of “all parking lot attendants” employed by the Employer at the Delta Airlines employee parking lot located at Hartsfield International Airport in Atlanta, Georgia. There are about 22 to 26 employees in the proposed unit, excluding individuals stipulated to be supervisors within the meaning of the Act.

² The Employer filed a brief, which was duly considered.

During the hearing, the Employer filed a Motion to Dismiss which was referred to the Regional Director for ruling. The Employer contends that the employees at issue are guards within the meaning of the Section 9(b)(3) of the Act, not parking lot attendants, and that since the Petitioner admits non-guards to membership, the petition must be dismissed. The parties stipulated that Petitioner admits non-guards to membership, including bus drivers and various other non-guard employees of the Employer. Therefore, the only issue to be decided here is whether or not the employees sought are guards within the meaning of the Act.

It is undisputed that the job title of the employees Petitioner seeks to represent is "Security Officer." Petitioner's employee witness testified that when he was hired he was told his title was Security Guard but that his duties would be "parking lot attendant." However, regardless of nomenclature, it is undisputed that this employee's job entails checking badges at a gatehouse to ensure that only authorized personnel enter Delta's secure, fenced lot. This witness does not have a driver's license and therefore cannot participate in the vehicle patrols of the parking lot and its perimeter undertaken by his co-workers. In other respects, however, this witness has the same duties and working conditions as the others.

All of the Security Officers wear military style uniforms with patches and shields that say "Security Officer." They work under common supervision separate from the supervision for the bus drivers represented by Petitioner who transport Delta employees from the parking lot to their jobs. Since the Delta parking lot is in a restricted part of the airport with access to airplanes, all Security Officers must go through FAA security training classes and remain current on relevant FAA requirements. The Security Officers

do not carry weapons, but they are responsible for controlling who enters the lot, for escorting vendors or repair persons temporarily allowed access, and for seeing that FAA regulations such as those forbidding firearms inside the lot are obeyed.

Except that only Security Officers with a valid driver's license can engage in vehicle patrols, the Security Officers may interchange specific assignments from shift to shift. For example, Petitioner's witness had worked on both gate 1 and gate 2. The officer at gate 1 is responsible for ensuring that the person attempting to enter has an authorized badge and is the same person depicted in his or her photograph. The person entering then proceeds to gate 2 where a second officer swipes the badge through a card reader. Other officers patrol the perimeter and the lot, escort authorized visitors, and monitor the 16 security cameras that are placed around the barbed wire fence surrounding the lot. If an unauthorized individual attempts to enter, or if an unauthorized action or vandalism is observed, this is reported by radio to the Employer's control building on the premises, to Delta, and if necessary to the police.

Section 9(b)(3) of the Act provides that the Board shall not certify a labor organization "as the representative of employees in a bargaining unit of guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards." To be found a guard under Section 9(b)(3), an employee must enforce rules to protect property or safety. However, Section 9(b)(3) is not limited to the protection of property belonging to the employee's own employer or to enforcing rules against fellow employees. American District Telegraph Co., 160 NLRB 1130 (1966). Here, the Security Officers clearly enforce access rules and protect the property on and accessible from the Delta parking

lot. They are separately supervised, wear uniforms with badges and shields, and attend security training classes. Given all of these factors, it is not necessary that they be armed or themselves exercise enforcement powers when a person disobeys the rules. Rather, “it is sufficient that they possess and exercise responsibility to observe and report infractions. . . .” The Wackenhut Corporation, 196 NLRB 278, 279 (1972). See also Allen Services Company, 314 NLRB 1060, 1062 (1994).

Based upon all of the foregoing, I find that the Security Officers Petitioner seeks to represent are guards within the meaning of Section 9(b)(3) of the Act. Since it is undisputed that Petitioner admits non-guards to membership, I shall dismiss the petition. Accordingly,

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

RIGHT TO REQUEST REVIEW

Under provision of Section 102.67 of the Board’s Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 - 14th Street, N.W., Washington, DC 20570. This request for review must be received by the Board in Washington by February 11, 2002.

Dated at Atlanta, Georgia, this 28th day of January, 2002.

Martin M. Arlook, Regional Director
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